Profiting from human distress

Trafficking with refugee children
and adolescents in Germany

terre des hommes
Help for Children in Need

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1. Analysis of the situation

Whether it happened in their country of origin, in transit or in Germany, many young refugees are affected by human trafficking for exploitative purposes. International organisations estimate that – depending on the route they take – between 40 and 75 percent of refugee minors are exploited. This situation is an enormous burden on them and can be life-threatening. The systems of welfare and support in the destination countries also confront major challenges in their task of protecting children and adolescents effectively from exploitation, and supporting them in coping with violence and exploitation.

The central questions are, first, ascertaining what actors should be involved and, second, what kind of structures are needed to identify the children concerned and do justice to their specific needs, including the prevention of further exploitation. International, European and national law provides for protection and legal certainty for this group of refugees. These legal instruments must be implemented more consistently in Germany. Such children and young people are frequently not perceived as victims of human trafficking and are therefore deprived of special protection and their rights.

In the course of an explorative research project, we analysed three forms of human trafficking for the purpose of exploitation and revealed loopholes in the system of assistance and protection:

- Sexual exploitation
- Exploitation at work
- Exploitation through committing punishable acts

We report here on different individual cases confirming these exploitative structures, based on 23 interviews with experts from victims’ advice centres and with other professionals in the field of child and youth welfare. We also referred to migrant support services and searched for relevant literature on the subject.

This field has not been comprehensively explored to date. There is no study giving reliable figures on the actual exploitation of young refugees. The data available from the situation report of the Federal Criminal Police Office (BKA) only records the closed cases known to the authorities. With respect to human trafficking the BKA assumes a large grey area. Consequently the figures for human trafficking with refugee children and adolescents are probably much higher.

The cases researched show that the young people are often recruited under false pretences in their country of origin. In Germany this recruitment takes places outside the various accommodation centres, at places where young refugees are known to meet, or via social media. Their distressed situation, lack of prospects, precarious residence status and separation from their families favours their entry into exploitation. The pull factors for many young refugees are encountering peer-to-peer structures and family-type situations, along with material incentives. As soon as young people are baited, they are put under pressure and subject to exploitation. Very few of those affected come to an advice centre and report on their plight, while many go underground.

Yet it is essential that such young people be rapidly referred to specialist advice centres against human trafficking. They should also be placed in accommodation specifically for girls or boys. In Germany, however, there is a shortage of such specialised advice centres and sheltered accommodation. In addition, the relevant actors
are not always aware of the issue and operate without much connection between themselves. Closer cooperation is necessary along with rapid joint action in order to protect children from exploitation, free them from exploitative conditions and arrest the offenders. At the same time, there should be guarantees that the young people and their relatives receive protection from possible threats from the offenders and are not criminalised. On the contrary, they should be seen as victims of human trafficking.

1.1. Sexual exploitation

Sexual exploitation takes place both before and during the process of fleeing, not only in the destination country. For some young people it is a reason to flee. Others fall into situations of strong dependence along the way and are forced to engage in sexual actions in order to pay for their transfer to Germany. Nor is their precarious situation over when they arrive in Germany. What they have experienced is taboo for many of these girls and boys; they fear social exclusion, mockery and deportation.

The authorities and welfare institutions often do not recognise whether young refugees have suffered, or are still suffering, sexual exploitation. A frequent change of institution responsible makes this even more difficult to recognise. Consequently there is no referral to specialised accommodation and counselling. This concerns both unaccompanied refugee minors and children who have fled with their families. The situation of male victims is particularly easy to overlook and there are hardly any sheltered accommodation places for boys and young men. Minimum standards to protect refugees in their accommodation are not applied across the board and this leads to a potential lack of protection. The standards applying in regular institutions for children and young people are not binding on refugee accommodation. Comprehensive checks on the security services or other staff are not conducted in every case. Poor pay and a lack of sensitivity on the part of security personnel increase the risks of exploitation.

1.2. Exploitation at work

Even though there have recently been some improvements in the refugees' access to the employment market, the access to regular work is often difficult. And yet they are motivated as they have debts to pay to their smugglers, their family in the country of origin is financially dependent on them and they wish to enjoy material participation. A lack of language skills, low pay for jobs not requiring training, or only temporary permission to stay make young refugees easy prey for the informal sector.

In addition, margins for extra earnings are very limited when young people are supported by youth welfare services. Up to 75 percent of what they earn is deducted in order to finance the state’s youth benefits. This can motivate those concerned to take up informal jobs, which makes it easier to slip into situations of exploitation. Then there are situations in which the young people earn much less than the minimum wage. Health and safety regulations are not respected, overlong working hours are the rule and there is little legal protection. Exploitation at work frequently takes place in the sectors of hotels and catering, building, dockyards, farming, as well as in delivery and security firms.

On the government side, the authorities responsible for dealing with irregular work are the unit "Financial control of illegal work" of the German customs authority and state offices for health and safety. They can
check on companies, with or without suspicion, and can obtain information from the workers regarding their employment circumstances. That way they gain an insight into the working conditions. They can report suspicious cases of human trafficking and labour exploitation to the prosecution authorities responsible. Assistance is offered by trade union advice offices to combat human trafficking and work exploitation, but they are not very well integrated into the present welfare system and are rarely visited by refugees.

1.3. Exploitation to carry out crimes

In the interviews, experts reported cases in which young people were forced to commit crimes such as drug dealing or theft. Young refugees were targeted, tempted with gifts and favours and a family-type milieu was simulated in order to create dependence. Or they were attracted to come to Germany while still in their country of origin, on false pretences. In these cases, the family sometimes receives threats in order to render the young people docile.

If it is possible to set up family-type structures, they strengthen the young person's feeling of belonging and hamper the uncovering of offender networks since no one is willing to bear witness against them. The dependence of young people on ringleaders is made all the more difficult as they fear being reported to the police after committing a crime. What many young people do not know, however, is that the public prosecutor can refrain from prosecution for crimes when the offenders are victims of human trafficking.

2. Examples of cases

The cases described were reported by experts from professional advice centres, migration services and the child and youth welfare system. All the real names have been replaced by pseudonyms.

2.1. Sexual exploitation

1. The story of Ennayat: sexual exploitation in the country of origin and in transit

Ennayat from Afghanistan was 17 when he entered Germany in 2014. After staying in a reception centre and various communal accommodations, he was finally taken into care by the youth welfare department and placed in a facility for unaccompanied refugee minors. At 18, he had to move again, this time to an apartment shared by young people between 16 and 21 with staff accompaniment.

During his interview in the asylum procedure, Ennayat reported for the first time that he had been sexually exploited for years in Afghanistan as a “dancing boy”. His step-father had sold him to a rich businessman who sexually exploited him with other business cronies. Ennayat finally managed to flee but suffered sexual violence several times en route, or had to prostitute himself in order to keep moving.

The deciding officer at the Federal Office for Migration and Refugees (BAMF) did not believe Ennayat and told him as much during the interview. That was a terrible situation for him. He tried to take his own life twice afterwards, was sent to hospital, and afterwards returned to the shared apartment for accompanied youth.
2. The story of Linda: Sexual exploitation on her journey

Linda was 16 when she fled to Germany from Syria with her parents and sister in 2016. They engaged the assistance of smugglers, who first brought them to Turkey. To continue towards Germany the smugglers demanded sexual favours from one of the two daughters. They sexually exploited Linda for several weeks before the whole family was smuggled further into Germany.

In Germany, the family first landed in emergency accommodation. At some point Linda could no longer stand it with her family, picked a fight and shouted insults at them. At her own wish she then went to a special home for girls with a therapy programme. Linda was full of rage and did not want to return to her family at all. It was only after four months there that she reported during therapy of how she had been sexually exploited. The therapist asked whether they, together, should raise this topic with her parents. Linda was strictly against this.

3. The story of Maimuna: sexual exploitation in Germany

Maimuna, an orphan from Gambia, came to Germany in 2016 at the age of 17. A German doctor working in Gambia had got to know her there and seen her difficult situation. He offered to take her into his family and procured the necessary papers for her to stay in Germany. She was happy about this opportunity.

Once in Germany, she found the promises had been lies. Instead of providing a safe home, the doctor raped her and forced her to have sex with other men. The doctor received money from the clients. When Maimuna tried to run away, he beat her up.

Finally she succeeded in a second attempt to flee, but the doctor had taken away her papers. She reached a reception centre for refugees. There she told her story to the advisors on procedure, who immediately made contact with a specialist advice centre for victims of human trafficking. The centre provided safe accommodation and organised medical care for her severe injuries.

The youth welfare department did not take charge of Maimuna as neither it nor the central migration department believed that she was still a minor. The advisor helped her to make an application for asylum and accompanied her to the interview. The application for asylum was finally granted on humanitarian grounds. With her adviser, Maimuna looked for an apartment of her own and began a language course.

2.2. Exploited as a worker

4. The story of Amin: exploited at work in Germany

Amin, aged 21, was 2016 when he entered Germany from a southeast European country. He came into communal accommodation and applied for asylum. His application was rejected and Amin was afraid of being deported to his country of origin. So he looked for a job.

One of the staff in the communal accommodation worked for a security firm. He offered Amin, and others whose application for asylum was rejected, a job in the security field. The CEO of the security firm procured
papers for them and a residence permit issued under another name. He demanded €850 per person, which was to be deducted from their wages later. He concluded the contracts under the wrong name, with much lower working hours and a higher wage of €8.50 per hour. The young men were told that the health insurance contribution was €3.50 and so they would only be paid €5.

Amin moved into a two-room apartment, which he shared with seven other colleagues and for which he had to pay €150 per month. He worked for a few months in twelve-hour shifts, sometimes at night, sometimes during the day. When he was ill he had to find a replacement himself and he earned nothing during that time. The wages were paid in cash at the end of the shift. Some of his colleagues had to wait for months to be paid.

Soon Amin was installed as the foreman – however, on the same terms. The longer he worked, the more exhausted he became and the more he was afraid of being discovered by the building inspectorate. Amin became more and more aware that this work offered him no long-term prospects in Germany. He was able to get out of the contract and then had to leave Germany.

2.3. Exploitation through performing punishable acts

5. The story of Cabdulaahi: recruitment in Germany for drug-dealing

Cabdulaahi was 13 when he fled his home country. After two and a half years he arrived in Germany at the age of 16. As an unaccompanied minor he was placed in a youth welfare centre in a Germany city. The carers there suspected that he had been used as a child soldier, due to the many scars on his body and his mental state.

He felt at home in the centre at first, and attended school regularly until his nightmares became unbearable. He then got hold of some marihuana in order to be able to sleep better. Gradually he started coming back later and later and told the social worker that he did not enjoy being there so much now, as no one spoke his language and he now had friends who helped him and gave him food and clothing. The social worker caught sight of him at the places known to be used for drug-dealing. When she mentioned it to him, Cabdulaahi said that he would now be staying with his new friends, whom he too could help. By that he meant that he had to sell drugs in return. There is now no contact between him and the social worker or the centre. Meanwhile Cabdulaahi is 18 and other legal standards apply than when he entered Germany as a minor.

6. The story of Anas: recruitment abroad and performing punishable acts in Germany

Anas came to Germany in 2017 as a 17-year-old unaccompanied refugee from Morocco and was taken into care by the youth welfare officer. With the carer from the youth welfare facility he visited an advice centre for victims of human trafficking. He needed assistance as a fellow Moroccan had brought him to Germany in order to earn money for his family. Once in Germany, however, the man forced him to sell drugs in order to pay the debt for the journey.

Anas did not want to do this, since drug-peddling is prohibited in Germany. Yet the smuggler had threatened both him and his family in Morocco if he did not do it. Anas wanted to get away from the man and this situation of exploitation. He went to a specialist advice centre. At the same time he did not want to put his family in Morocco at risk. He refused the idea of talking with the public prosecutor or reporting the smuggler. That was the last time the boy visited the advice centre.
3. Demands

3.1. Fundamental recommendations

In order to combat the exploitation of young refugees, terre des hommes and ECPAT call for a thorough, comprehensive examination of the situation regarding exploitation. The sources known to date do not give a sufficient qualitative and quantitative overview of the actual extent of exploitation of children, youth and young adults.

There needs to be increased action for the early recognition and identification of potential and actual victims of exploitation.

1. In order to prevent children and young people in Germany from becoming victims of exploitation, they have to be empowered as individuals. The young people should be made aware of the threats and tricks of recruiters. They should not be allowed to remain without future prospects. Other ways of preventing exploitation are through schools and educational programmes, family reunification and regular support and accompaniment.

2. Professionals from state and non-state advice centres for refugee social work, care facilities, the immigration departments and the BAMF must be trained with regard to human trafficking and the identification of victims. On principle, special coordinators for human trafficking must be involved in taking the decision in asylum procedures. The indicator list drawn up at the federal level on identifying minors who are victims of human trafficking must be made available to all actors and used more in daily practice.

3. Some amendments to asylum law and regulations to better combat human trafficking have been in force since 2015. They are not known to all competent authorities and administrations, which need in-service training in this regard. More information material should also be produced.

4. Well coordinated cooperation among all relevant actors is essential when it comes to rapidly identifying young refugees concerned and to combating human trafficking. To that end, the responsibilities of the relevant actors must be named and depicted in a system of reference offering orientation and assistance both to authorities and the welfare system, and to the young people themselves.

5. Family members of young refugees are regularly threatened in the country of origin or transit country, in order to keep the young people in exploitative structures. Protective measures must be put in place for them and their relatives to successfully free them from exploitation. Germany should play an active role when it comes to cross-border policing and increase the number of bilateral police agreements, also with countries outside Europe.
3.2. Sexual exploitation in the country of origin, in transit and in Germany

The sexual exploitation of young refugees is a constant danger during the whole process of fleeing. Steps to prevent these forms of exploitation need to be developed all along the routes.

6. Development cooperation needs to be strengthened with an emphasis on gender-based projects that particularly empower young women, girls, and also boys at risk, preventing them from falling victim to recruitment for purposes of sexual exploitation. Furthermore, security along the refugee routes should be increased, which underlines the demand for safe passages so that those concerned do not need to be forced into situations of exploitation.

7. In order to assist young people who are, or have been, in exploitative situations specialist accommodation should be established separately for girls and boys, and also available to young adults. These facilities must be suitable and operated on the same protective standards as facilities for child and youth welfare. The personnel must be trained for the special situation of victims of exploitation. Security checks must be obligatory also for watchman services and building supervisors.

8. Children and young people need to have the opportunity to report on the exploitation situations they have suffered without the presence of their parents, and to be taken seriously. Persons who are in contact with the possible victims should be made aware of this, e.g. in the Federal Office for Migration and Refugees, in youth welfare offices and in public prosecutor’s offices. Experience shows that trained personnel actually do take action and this can lead to an improvement of the situation of the young people concerned.

9. The cases researched show that the situation of those concerned differ individually. Specific provision for victims of sexual exploitation is therefore necessary. That includes access to psychosocial assistance, in particular in the case of traumatic experiences. Targeted advice and specific offerings for boys must be expanded on a broad scale and be available at the local level. It is particularly difficult for children with disabilities. There are very few facilities for them in the whole of Germany. Therapy offerings can only function in such cases when, besides the therapy, there is adequate communication with the young refugees concerned (e.g. sign language interpreters).

3.3. Exploitation in work

Exploitation in work is part of the young refugees’ biography in many of the cases reported.

10. In order to prevent and combat the exploitation in Germany of young refugees in work situations, there should be competent contact persons in the police, customs, courts, unions and advice centres, who need to be interlinked.

11. The competent inspectorates belonging to the customs and state health and safety authorities must systematically examine whether minors and adolescents in the companies are affected by human trafficking
for exploitation at work. The corresponding rules in the penal code set an age limit of 21. It is crucial that the relevant checks do not merely lead to punishment for the children and young people. Instead, those concerned must be referred directly to advice centres and appropriate facilities. The young people must not be regarded as offenders, but primarily as victims.

12. Young people who have made it to Germany on their own can more easily be manipulated and put under pressure as they have to pay the smugglers or their families back home are threatened. An insecure residence status and difficult access to the labour market prompts young people to accept informal work. Another factor is deductions from youth welfare benefit when they work on a regular basis. Barriers to employment must therefore be systematically dismantled. Anyone working here legally is less dependent on irregular employment. In this context trade union advice centres for combating human trafficking and exploitation at work must be made aware of the issue and become more pro-active. Furthermore, their offerings must be better interconnected so that more of the refugees concerned can take advantage of free advice even without being members of the unions.

3.4. Exploitation through committing punishable acts

Refugee minors are recruited for punishable activities through exploitation of their precarious situation. This takes place outside accommodation facilities, at well-known dealing places or via social media.

13. Not only refugees but also young Germans may be affected by recruitment to commit punishable acts. Hence suitable counteractions are information campaigns that explain how and where recruitment works and what advice centres offer assistance. At the same time, advice centres and those affected must be informed that prosecution may not necessarily be the consequence when the offenders are victims of human trafficking.

14. If refugee children commit punishable acts and are recognized as victims of human trafficking, the courts may desist from prosecution. Judges should provide an advocate of the child to give procedural support. This person represents the child’s welfare and desires at a possible hearing of the child as personally concerned or as a witness in a criminal case against human traffickers.

3.5. Exploitation through committing punishable acts

Current asylum and refugee policy does not prevent the exploitation of young refugees, nor does it contribute to a speedy resolution – the opposite will probably be the case.

15. The isolation particularly of unaccompanied refugee minors can mean that they are forced into exploitative structures. They should therefore not be accommodated in the large centres planned for Germany called AnKER (arrival, decision and return) centres. Regulations hampering rapid family reunification should be removed.

16. By no means should the proposals to change the social code (SGB VIII) set out in the coalition agreement of the present government be implemented with respect to possible systematic deterioration of assistance for unaccompanied refugee minors and the establishment of the AnKER centres (usually far away from
cities). These two measures would mean that access to support programmes for those concerned would be restricted even more and that they would be even less visible.

17. The German government must advocate for safe pathways and transfer options at the European level – the higher the fences become, the higher the costs for the journey and the greater the danger of young people falling victim to exploitative activities.

18. Policy-makers must introduce effective measures to sustainably promote the access to rights and to support victims of human trafficking, integrating them into society and giving them prospects for the future.

**Definition of human trafficking**

Human trafficking may be assumed when persons are recruited, transported, passed on, accommodated or received (deed) by third persons through threats, violence or exploitation of their predicament or helplessness (means) with the goal of exploitation, e.g. sexual exploitation, forced labour, committing punishable acts, forced services including begging, slavery-type practices (purpose). If the victim is under 21 the element of the means becomes immaterial, however, and the question of whether this is a case of human trafficking is defined exclusively in terms of the deed and the purpose. For persons under 18 there are also measures to increase the punishment. Human trafficking does not require the crossing of a national border. The definition of human trafficking goes back to the Palermo Protocol and is the basis of Directive 2011/36/EU of the European Parliament and of the Council, transposed into German criminal law in §§ 232, 232a, b, 233, 233a Penal Code.
There are a host of legal possibilities for protecting the rights of those concerned and charging the offenders. These possibilities need to be implemented and evaluated with respect to potential improvements.

**Protection from sexual violence**
- Law to strengthen active protection of children and young people
- Law to combat sexual abuse and sexual exploitation of children and young people (§§ 176–178 StGB)
- Child pornography documents (§§ 184 b, c StGB)
- Child trafficking
- Child protection

**Protection from exploitation at work**
- Employment of foreigners without residence permits who are victims of human trafficking is punishable (§ 10 a SchwarzArbG)
- Withdrawal of minors from their parents, a parent, guardian or foster-parent (§ 235 StGB)

**Protection from human trafficking:**
- The legal foundations
- **International Treaties**
  - Universal Declaration of Human Rights – UDHR
  - Convention relating to the Status of Refugees – CRSR (Geneva Convention)
  - Convention on the Rights of the Child
  - Palermo-Protocol
  - ILO Conventions 138 and 182
  - Migrant Workers Convention
  - International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families
  - Lanzarote Convention
- **European Treaties**
  - Directive on human trafficking
  - Directive 2011/36/EU
  - Directive 2012/29/EU
  - Council of Europe Convention on action against the trafficking in human beings
  - Directive of the European Parliament on combating the sexual abuse and sexual exploitation of children and young people
  - Directive of the European Parliament and the Council on combating the sexual abuse and sexual exploitation of children and young people
  - Directive on human trafficking
- **National Laws to Combat Human Trafficking**

**Protection of children and young people (National)**
- Granting residence permit for victims of human trafficking
- Federal law for child protection
- Law to combat sexual abuse and sexual exploitation of children and young people
- Co-operation in child protection
- Admitting to the status of a child

**Source:** terre des hommes e.V., ECPAT e.V.
At the most varied points in time, many people and institutions have contact with young refugees (potentially) affected by exploitation. All the actors must be aware of their obligations and options for intervention, and be able to act in the child’s best interests. Coordinated cooperation and a more intense exchange of information are essential among the actors involved.

**Protection from human trafficking:**

**Actors and responsibilities**

**A Direct personal contact with the children concerned**
- Parents or guardian
- Social workers and child protection professionals in accommodation facilities or child and youth welfare departments
- Schools department or teachers and kindergarten staff
- Volunteers in refugee work
- Doctors

**B Further referral to advisory services**
- Specialist advice centres against human trafficking
- Trade union advice centres for victims of exploitation at work and human trafficking
- Child-friendly and appropriate accommodation for girls and boys concerned, e.g. for those with disabilities
- Migration advice centres
- Interpretation services
- Psychosocial centres
- Health department

**C Authorities and institutions in the asylum procedure**
- Youth welfare department and clearing units
- Reception centres
- Immigration departments
- Employment agencies and job centres
- Federal Office for Migration and Refugees (special officer for refugee minors and victims of human trafficking)

**D State implementation authorities to uncover and prosecute human trafficking**
- Financial control of illegal work of the German customs authority (FKS)
- State inspectorates for occupational safety (LAS)
- Police
- Public prosecutor
- Customs authority
- Lawyers (labour law, criminal law, asylum law)
- Advice and support during the procedures
- Criminal and family courts
- Specialist advice centres, including psychosocial accompaniment of the court procedure

**E State responsibilities**
- Interior ministry (BMI): Asylum procedure and special arrangements
- Family ministry (BMFSFJ): Protection and support of children concerned
- Foreign Office (AA): Visas for family reunification; protection of relatives abroad
- Development ministry (BMZ): combating root causes of fleeing, empowering and protecting girls, boys and women

**F Competences and liaison persons at the European level**
- Europol – EU criminal prosecution authority: supports national criminal prosecution authorities in fighting crime
- Eurodac – asylum seeker fingerprint ID system
- Frontex – the EU agency to protect its external borders: collects data on transnational crime and human trafficking – cooperates with Europol, government departments, interior and other ministries, customs, coastguards

Source: terre des hommes e.V., ECPAT e.V.